REMARKS

Claims 26, 28 and 30 have been amended to correct errors of a clerical nature. Claim 30, line 5 has also been amended to specifically define the fact that the backup computer stores the total file size data for and from each of the client computers. The change to claim 22, line 6 is made because there was no antecedent basis for "said data files." The change to claim 25 is made because of ambiguity with regard to the antecedent basis for the word "file" in each of lines 3 and 4. The changes to claims 26 and 27 are made to correct an antecedent problem concerning "back up storage area." Insertion of the word "storing" in claim 30, line 5 provides an antecedent basis for the word "stored" in claim 30, line 8. Insertion of the word "client" in claim 32 provides an antecedent basis for "client file" in line 8. The changes to claim 35, 38, 40 and 41 are made because of ambiguity with regard to the antecedent basis for the words "files" and "list." Entry of the foregoing amendments is in order because they are directed to matters of form and do not raise substantive matters requiring consideration of new issues or a new search.

Claims 29 and 43-47 are canceled because they are not deemed to be necessary.

Applicants traverse the rejection of claims 21-37 as being obvious as result of Saxon, United States Patent 5,758,359.

Independent claim 21, upon which claims 22-29 depend, distinguishes in an unobvious manner over Saxon by requiring, inter alia, the steps of (1) determining the total size data describing the total size of listed files allocated for backup of a particular client computer; (2)

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comparing the total file size data allocated for backup of the particular client computer with a predetermined size limit; and (3) determining whether to backup the particular client files or not depending on the comparison. The analysis of claim 21 on pages 3 and 4 of the Office Action ignores the particular client computer requirements of (2) and (3). The particular client computer requirements are in (2) and (3) because the "comparing" and "determining" steps of the claim refer to "said total file size data." The antecedent basis for "total file size data" is in the "determining" step which says such data describe the total size of said listed files of said particular client computer.

Saxon has no disclosure of limitations (2) or (3). Instead, Saxon compares the total size of the files from many client computers selected for backup with a maximum size threshold; see column 3, lines 1-18 and column 7, lines 19-50. Saxon compares the total size of the files from the many client computers selected for backup with a maximum size threshold to determine if there is enough time available to perform the backup. In contrast, applicants perform the "comparing" and "determining" steps for a particular client computer to prevent a user from selecting a vast amount of data to protect by backup and take up excessive backup server space. Further, by performing the comparing and determining steps for a particular client computer, the user of a client computer being backed up is able to understand that backup has a quota and is not unlimited; see page 2, line 27-page 3, line 8 and page 3, line 17-27 of the application as filed.

In connection with claim 21, the examiner admits "Saxon does not explicitly teach backup from the client computer." To support the position of obviousness with respect to this deficiency in Saxon, the Examiner incorrectly relies on column 5, line 6-13 of Saxon. Column 5,

lines 5-8 of Saxon says remote storage device 38 and network 18 can store the same sets created and stored in main storage system 14 during backup. Column 5, lines 8-13 merely says backup scheduler 28 in server 12 could control the backup of some or all devices on network 18 and that is possible to connect other networks where storage devices could reside. Hence, the portion of Saxon relied on by the examiner to make obvious backup from a client computer does not indicate a client computer is at all involved in making a backup determination, and in particular a backup determination based on total backup file data size of that client computer.

Similarly, the determining steps of the dependent claims 22-24 involve comparing the total file size data for a particular client computer because these claims require "comparing said total file size data" with limit data. Consequently, Saxon does not disclose the steps of claims 22-24, as alleged on pages 4 and 5 of the office action. Instead, the Saxon comparing steps are concerned with comparing the total size of all files from many client computers selected for backup to the backup memory. The allegation in the Office Action that Saxon, in column 7, lines 50-57, discloses generating a warning message (as required by claims 22 and 24) appears to be incorrect. The Examiner is requested to indicate where this or any other portion of Saxon alludes to a warning message. The statement in the Office Action that column 7, lines 50-57 of Saxon discloses the requirements of claims 23 and 24 for comparing total file size data with a second file size limit data also appears to be incorrect. This portion of Saxon indicates successive comparisons of total size of the retroactive backups are made with a single maximum size threshold.

The Examiner appears to have mischaracterized Saxon in so if far as claim 25 is concerned by saying that column 7, lines 22-27 of Saxon discloses maintaining a quota list, listing a plurality of files stored in a backup region of a client computer and wherein for each file stored in the backup region there are stored size data describing the size of the file. Applicants are unable to find a discussion in this portion of Saxon of the foregoing terms or equivalents thereof. The Examiner is requested to indicate more specifically how column 7, lines 22-27 of Saxon inherently includes the features of claim 25 since Saxon does not specifically disclose these features.

The Examiner also appears to have mischaracterized Saxon with regard to claim 26 by saying Saxon teaches, for the particular client computer, summing the total of all the file sizes to obtain total file size data of files stored in the backup storage area of the client computer. Claim 21, upon which claim 26 depends, says the client data storage area stores files desired to be backed up to the bulk data storage device. The Examiner again refers to column 7, lines 22-27. However, this portion of Saxon is concerned with the maximum size threshold of all the selected files, as reference to column 7, lines 39 and 40, as well as column 3, lines 1-18 indicates.

The Office Action, in referring to claim 27, says Saxon in column 7, lines 30-40 discloses storing a difference list for a particular client computer, wherein the difference list lists differences between files backed up during a previous backup process of files currently stored in the backup data storage area of the client computer, i.e., the client computer stored files desired to be backed up to the bulk data storage device, per claim 21. However, applicants are unable to find, in column 7, lines 30-40 of Saxon, any discussion of a difference list, as defined in claim

27, or the equivalent of a difference list. The Examiner is requested to indicate how this portion of Saxon discloses a difference list per claim 27.

In discussing claim 28, the Examiner says "Saxon teaches the size of teach file (sic; apparently should be 'each file') is determined by comparing a list of current files of the particular client computer desired to be back-up (sic; apparently should be backed up) for the particular client computer during the immediately previous back-up, altering list for each changed file desired to be back up (sic; apparently should be backed-up) for the particular client computer, for each deleted file for the particular client computer removing the file from the list, for each added file for the particular client computer added file to the list." The Examiner says column 7, lines 45-65 of Saxon discloses these features. In fact, however, column 7, lines 48-50 says the operations of column 7, lines 50-60 are performed by comparing the total size to the maximum size threshold to determine if the total size is less than or equal to the maximum size threshold. Column 7, lines 41-43 and column 3 lines 1-10 indicate total size is computed by adding the sizes of the selected files to be backed up. Hence, the relied upon portion of Saxon does not disclose a comparison of a list of current files of the particular client computer.

Independent claim 30, upon which claim 31 depends, distinguishes in an unobvious manner over Saxon by requiring, inter alia, the backup computer to (1) receive total file size data for and from each of the client computers, wherein each of the total file size data represents the total file size at the client computer of files the client computer desires to be backed up to the backup computer; and (2) respond to the stored total size data for each client computer to determine, for each client computer, a file size limit for which backup of the files of the client

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computer is permitted. The reliance by the Examiner on column 7, lines 46-60 of Saxon for the feature of the backup computer determining a file size limit representing a limit of total size file for each client computer, for which backup of files is permitted, is wrong. Column 7, lines 48-50 and column 3, lines 1-10 of Saxon indicate total size is determined and that total size is computed by adding the selected new size set sizes together. Saxon has no disclosure of determining a total size file for each client computer as alleged in the office action.

Applicants do not understand the Examiner's comment with regard to claim 30 that "Saxon does not explicitly teach backup from the client computer." Claim 30 does not discuss backup from a client computer. Instead, claim 30 is concerned with operating a backup computer.

In discussing claim 31, the Examiner mischaracterizes column 7, lines 40-67 of Saxon by saying the reference "teaches transmitting from the backup computer to the client computers the file size limit determined for each client computer." Applicants are unable to find any mention in this portion of Saxon of a transmission from a backup computer to a client computer; this is particularly true of a file size limit.

Independent claim 32, upon which claims 33-35 depend, distinguishes in an unobvious manner over Saxon by requiring, inter alia, a method of operating a client computer which includes (1) storing size data describing the size of client files to be backed up; (2) summing the plural file sizes of the client computer to obtain a summed file size total for the client computer; and (3) comparing the summed file size total of the client computer with a size quota limit.

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Operations (2) and (3) are required to be with respect to the client computer because the only mention of file sizes in claim 32 is with respect to the size of the client file; in this regard, see the limitation that says "storing size data describing the size of said client file." As previously discussed, Saxon is concerned with comparing the total size file of multiple computers that are being backed up and not a comparison with the size of client files.

In response to the Examiner's comments that Saxon does not explicitly teach backup from the client computer but discloses a network, applicants note that Saxon has no disclosure of operating a backup computer to determine file size limit. Instead, the "alternative embodiment" Saxon discloses is merely directed to scheduler 28 being at a remote storage device, such as remote storage device 38. Applicants, by performing the necessary backup calculations and comparison at the client computer, avoid the need to transmit the data necessary to perform the calculations to a remote device and then retransmit the resulting information back to the client computer.

Claims 33 and 34 add limitations to claim 32 similar to the limitations that claims 22 and 23 add to claim 21. The examiner has rejected claims 33 and 34 on the same erroneous, previously discussed basis as claims 22 and 23. Consequently, the arguments previously advanced with regard to claims 22 and 23 are applicable to claims 33 and 34. As previously discussed in connection with claim 27, applicants are unable to discern where Saxon, in column 7, lines 45-60, discloses generating a difference list listing the files changed between the current file list in the previous file list. Explanation is requested.

Independent claim 36, upon which claims 37, 38 and 40 depend, distinguishes in an unobvious manner over Saxon by requiring, inter alia, a client computer that is arranged to receive a first quota limit from an external source, wherein the first quota limit describes an amount of data storage capacity the client computer is permitted to maintain in a data storage area for files which are subject to a backup process.

The Examiner has mischaracterized Saxon with regard to claim 36. Saxon has no disclosure of any details of a client computer, no less a client computer with a processor that receives a first quota limit from an external source, wherein the first quota limit describes an amount of data storage capacity the client computer is permitted to maintain for client files subject to a backup process. There is no disclosure in column 7, lines 41-60 of a client computer, no less of a client computer with the foregoing requirements. The operations described in column 7, lines 41-60 of Saxon are the operations performed in backup scheduler 28 of server 12 that adds the sizes of the selected files to be backed up, as discussed by Saxon in column 3, lines 1-18 and column 7, lines 21-50. Again, applicants cannot agree with the Examiner's conclusion that it would have been obvious to provide the data processor of claim 36 in the client computer; see the arguments previously advanced concerning this issue.

Claims 37 defines the second quota limit requirement. Arguments similar to those advanced with regard to claim 23 that also includes the second quota limit are applicable. Applicants cannot agree with the Examiner's comments with regard to the requirement of claim 38 about maintaining a difference list; see the arguments previously advanced concerning these issues.

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Independent claim 39, upon which claim 45 depends, distinguishes in an unobvious manner over Saxon by requiring, inter alia, a method of backing up data of a client computer that includes the steps of (1) determining the total size of all files of the client computer to be backed up each time a backup operation of the client computer is initiated; (2) if the total size of all files of the client computer to be backed up exceeds a first limit, a determination is made if performance of the backup of the client computer would cause a second predetermined quota limit to be exceeded; (3) if it is determined that performance of the backup of the client computer would cause the total size of all files of the client computer to be backed up to exceed the first quota limit but the second quota limit would not be exceeded, the backup is performed and a warning signal is generated to warn that the first predetermined quota limit is exceeded; and (4) if performance of the backup would exceed the second predetermined quota limit backup of the client computer is prohibited and a warning signal is generated that the second quota limit would be exceeded. Claim 39, as written, includes the "client computer" requirements of items (2)-(4) because the only backup operation referred to in the claim is of the client computer. As previously discussed, Saxon does not disclose two quota limits. In addition, Saxon does not disclose making the determination vis-a-vis a client computer. Further, as previously discussed, the quoted portion of Saxon does not disclose generating a warning signal.

In response to the Examiner's comment that it would been obvious to have provided Saxon with a second predetermined quota limit, applicants note that the technique Saxon discloses in column 7, lines 52-66 deals with the retroactive backup of the entire computer system to determine if adequate time exists to perform the backup. In contrast, claim 39 is

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directed to a method of backing up data of a client computer and provides the features previously discussed for enabling a user of the client computer to deal with backup quotas. Because Saxon and applicants are approaching the backup problem from opposite directions, one of ordinary skill in the art would not have modified Saxon to arrive at the combination of claim 39.

Independent claim 40, upon which claim 41 depends, distinguishes in an unobvious manner over Saxon by requiring, inter alia, a method of operating a client computer including the steps of maintaining a quota list having a list of files in a backup storage area of the client computer and modifying the quota list to list the actually backed up files in response to a back up operation of the client computer to a backup computer.

The discussion of claim 40 on page 14 of the Office Action is contrary to the discussion of claim 40 on page 15 of the Office Action because page 14 says "Saxon teaches a method of operating a client computer" while page 15 admits "Saxon does not explicitly teach client computer (sic)." In fact, Saxon does not disclose anything about operating a client computer. Performing the operations in a client computer is not made obvious by Saxon for the reasons previously discussed.

The analysis on page 14 of the Office Action of Saxon with regard to the requirements of claim 40 about maintaining a quota list and modifying the quota list is incorrect. As previously discussed, the total size Saxon discusses in column 7, lines 22-28 results from adding the new save set sizes of the selected files of the multiple computers that are backed up by the Saxon retroactive backup arrangement. Saxon does not modify the quota list of a client computer. In
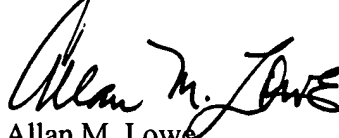
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addition, Saxon does not modify the quota list of client files in a backup data storage area of a

client computer, as claim 40 requires. Instead, if the amount of a backup is excessive Saxon

removes from mass storage system 14 a file that otherwise would have been backed up. The

amount of backup is excessive if the time the backup would have taken is in excess of the time

available for the backup, as determined by adding together the sizes of the files to be backed up.

Hence, Saxon is centered about resolving problems of excessive backup time for mass storage

system 14, while applicants are concerned with enabling a client computer user to understand

quota limits.

In view of the foregoing amendments and remarks, favorable reconsideration and

allowance are respectfully requested and deemed in order.

Please charge any shortage in fees due in connection with the filing of this paper, including

extension of time fees, to Deposit Account 07-1337 and please credit any excess fees to such

deposit account.

Respectfully submitted,

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